

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

RICK L. HICKS,

Petitioner,

v.

BRANDON PRICE,

Respondent.

Case No. 1:20-cv-01523-NONE-SAB-HC

ORDER DENYING PETITIONER'S  
REQUEST TO DECIDE PETITION ON THE  
MERITS

(ECF No. 11)

ORDER DIRECTING CLERK OF COURT  
TO SEND PETITIONER COPY OF  
MOTION TO DISMISS

Petitioner, who has been civilly committed pursuant to California Welfare & Institutions Code §§ 6600 et seq., is proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On January 8, 2021, Respondent filed a motion to dismiss the petition (ECF No. 6) in accordance with the Court's scheduling order (ECF No. 3). On March 16, 2021, the Court received the instant request that the Court decide the petition on the merits. (ECF No. 11). Although unclear, Petitioner appears to state that he has not received any response to the petition from Respondent and requests the Court to decide the petition on the merits despite the lack of response from Respondent. (*Id.* at 1, 2).<sup>1</sup> However, Respondent filed a certificate of service with the Court certifying that on January 8, 2021, a copy of the motion to dismiss was served on

<sup>1</sup> Page numbers refer to the ECF page numbers stamped at the top of the page.

Petitioner by mail. (ECF No. 6 at 5). Accordingly, the Court declines to decide the petition on the merits while a motion to dismiss is pending.

Based on the foregoing, the Court HEREBY ORDERS that:

1. Petitioner's request to decide the petition on the merits (ECF No. 11) is DENIED;
2. The Clerk of Court is DIRECTED to send Petitioner a copy of Respondent's motion to dismiss (ECF No. 6);
3. Within twenty-one (21) days of the date of service of this order, Petitioner SHALL FILE an opposition or statement of non-opposition to the motion to dismiss; and
4. Any reply to an opposition to the motion to dismiss shall be filed within seven (7) days after the opposition is served.

IT IS SO ORDERED.

Dated: March 17, 2021

  
UNITED STATES MAGISTRATE JUDGE